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## **NZ Sport Fishing Council submission on the review of management controls for the Paua 7 fishery (PAU7) for 1 October 2016**

### **Recommendations**

1. The Minister seeks to rebuild Paua 7 by adopting MPI's proposed Option 3, as follows:
  - a. Reducing the Total Allowable Catch (TAC) from 220.24 tonnes to 115 tonnes;
  - b. Reducing the Total Allowable Commercial Catch (TACC) from 187.24 tonnes to 75 tonnes;
  - c. Retaining the allowance for Maori customary non-commercial interests, at 15 tonnes;
  - d. Retaining the allowance for recreational interests, at 15 tonnes; and
  - e. Increasing the allowance for other sources of fishing related mortality, from 3 tonnes to 10 tonnes.
2. The Minister acknowledges that:
  - a. PAU7 has been below target stock size for nearly 20 years;
  - b. Voluntary commercial measures such as shelving have not enabled a rebuild in that time;
  - c. There is no statutory support for shelving; and
  - d. More effective measures are required to rebuild PAU7 to comply with statutory requirements.
3. The Minister acknowledges that low abundance levels for nearly 20 years has impacted on recreational harvest, and that the current allowance is highly uncertain and may not be sufficient to allow for recreational interests when the fishery rebuilds.
4. MPI work with all stakeholders in the PAU7 fishery to develop both rebuild strategies in the short-term and a longer-term plan to guide future management and provide for the foreseeable needs of future generations. The management plan:
  - a. Incorporates the views of local communities and tangata whenua;
  - b. May include local area spatial controls; and
  - c. Enables the Minister to act in a precautionary manner until more information is available on stock levels, fishing impacts, biodiversity and ecosystem function.

### **NZ Sport Fishing Council - LEGASEA**

5. The New Zealand Sport Fishing Council and our outreach LegaSea (the submitters) appreciate the opportunity to submit on the review of management controls for Paua 7. The Ministry for Primary

Industries (MPI) advised of their Discussion Paper on 10 June 2016 with submissions due by 11 July. Any changes will apply from 1 October 2016.

6. The NZ Sport Fishing Council is a national sports organisation with over 32,000 affiliated members from 57 clubs nationwide. The Council has initiated LegaSea to generate widespread awareness and support for the need to restore abundance in our inshore marine environment. Also, to broaden NZSFC involvement in marine management advocacy, research, education and alignment on behalf of our members and LegaSea supporters. [www.legasea.co.nz](http://www.legasea.co.nz)
7. We are committed to ensuring that sustainability measures and environmental management controls are designed and implemented to achieve the Purpose and Principles of the Fisheries Act 1996, including “maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations...” [s8(2)(a) Fisheries Act 1996]
8. The submitters continue to object to the Ministry’s tight consultation timetable, in this instance, 21 working days. In our view this timeframe does not allow for adequate consultation, it is particularly offensive for non-commercial organisations such as ours that need to consult with a range of interests and volunteers. This is unacceptable consultation and, in our opinion most likely unlawful as per ss 12 and 13 of the Fisheries Act and as judged by the Court of Appeal<sup>1</sup>.
9. NZSFC representatives are available to discuss this submission in more detail if required. We look forward to positive outcomes from this review and would like to be kept informed of future developments. Our contact is Dave Lockwood, secretary@nzsportfishing.org.nz.

## Paua

10. Paua form large aggregations on reefs in shallow sub-tidal coastal habitats. They do not move much, so are considered sedentary. Paua are broadcast spawners, spawning annually. Growth, shape, and recruitment can vary over short distances and maybe influenced by wave exposure, habitat structure, availability of food and population density. Localised fishing pressure make paua vulnerable to recruitment failure, impacting overall productivity. Changes in environmental conditions, loss of drift algae, increased water temperatures, sedimentation and run-off can all have an effect on the health and viability of paua populations.

## Paua 7 management

11. MPI is reviewing the TAC, TACC and allowances for Paua 7 (PAU7).
12. The proposed options for the future management of PAU7 follows –

Option	Total Allowable Catch	Total Allowable Commercial Catch	Allowances		
			Customary Māori	Recreational	Other sources of fishing-related mortality
Option 1 ( <i>Status quo</i> )	220.24	187.24	15	15	3
Option 2	152	112	15	15	10
Option 3	115	75	15	15	10

13. PAU7 was introduced into the Quota Management System (QMS) in 1986 and the Total Allowable Commercial Catch (TACC) was set at 250 tonnes (t). On appeal the TACC increased to 267.48 t by 1989. The TACC was reduced in October 2001 to 240.73 t, and reduced again in 2002 to the current

<sup>1</sup> International Airport Ltd and Air New Zealand (CA 23/92, 73/92[1993] 1 NZLR 671).

level of 187.24 t. A Total Allowable Catch (TAC) was set and allowances made in 2001.

14. MPI highlights that the PAU7 fishery will continue to decline if the current TAC and TACC is retained.
15. MPI and the PAU7 industry have been concerned about the declines in biomass and the relatively low level of Catch Per Unit of Effort (CPUE).
16. Commercial fishers free-dive for paua. A Minimum Legal Size (MLS) of 125mm applies to commercial harvest. In some areas the MLS has voluntarily been increased, variously to 126mm, 130mm or 132mm shell length.
17. There are a variety of customary area closures and controls applying to customary harvest of paua.
18. Recreational fishers can take paua by free-diving, or hand gathering from the shore. A MLS of 125mm applies within a daily bag limit of 10 paua per person.

### Future management

19. The submitters agree with MPI that there is a need to reduce the level of catch in PAU7 because the stock is now below the soft limit, as described in the Ministry's Harvest Strategy Standard (HSS).
20. The PAU7 stock is estimated to be at 18% of unfished biomass, B18. Given that the fishery has been below target for nearly 20 years, we support as a minimum MPI's Option 3 – a 60% reduction in the TACC, which is estimated to increase biomass to B25 by 2018.
21. However, we are not sure about the utility of the stock projections, when a 40% reduction in the TACC (Option 2) is projected to rebuild PAU7 to B23 in 2018, and a 60% TACC reduction (Option 3) rebuilds to B25 by 2018. It would be a miracle to achieve this level of precision.
22. The submitters note that shelving has been used in five past seasons to try and rebuild stocks and catch rates. While CPUE increased for several years, no long-term benefits have been apparent.
23. MPI note that, *"the rebuild will likely require a number of years before a significant increase in abundance is observed"*.
24. MPI continue, *"The shelving of additional quota by fishers may serve as a useful adjunct to the TACC reduction to improve the probability or speed of a rebuild"*.

### Shelving

25. The submitters do not consider shelving to be a lawful or legitimate tool to rebuild New Zealand's depleted fisheries. Shelving, where commercial interests agree to not catch their Annual Catch Entitlement<sup>2</sup> (ACE), is not an acceptable strategy particularly in a depleted stock where non-commercial harvest is being affected by low abundance.
26. As noted by the Supreme Court, the Minister is obliged to *ensure* sustainability. While users of the fishery can contribute to conservation or the rebuild effort, the Minister is ultimately responsible to set the TAC to move the biomass to or above Maximum Sustainable Yield (MSY)<sup>3</sup>.
27. The Minister decides the TAC and TACC based on the best available information, and if that means reducing these levels then so be it. The Courts have confirmed the Minister's ability to set the TACC at zero. If this occurs no ACE is generated.

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<sup>2</sup> Annual Catch Entitlement (ACE) has a one-year lifespan.

<sup>3</sup> NEW ZEALAND RECREATIONAL FISHING COUNCIL INC AND ANOR V SANFORD LIMITED AND ORS SC 40/2008 [28 May 2009]. Para 43.

28. We note MPI's advice that the paua industry has indicated they are not in favour of continuing shelving arrangements in PAU7, and are seeking "*stronger action to support a rebuild of the fishery*". We couldn't agree more.
29. Fisheries are a national resource; we consider that shelving is merely a convenient way for quota shareholders to retain the TACC when a reduction is the most appropriate response in a fishery depleted by decades of commercial exploitation.

#### **Recreational interests**

30. MPI note in some areas of PAU7 are under intense recreational fishing pressure, particularly the most accessible areas.
31. The most recent National Panel Survey (NPS) estimate of 14.13 tonnes is likely to under estimate actual recreational harvest from PAU7. Shore based fishing was not well captured in the last NPS. An updated estimate of recreational catch is expected in 2019. When combined with s111 harvest, overall catch is estimated to be 15 tonnes.
32. We note that paua harvested by commercial fishers under s111 of the Fisheries Act 1996 has steadily increased over time, from 179kg in 2010-11 to 621kg in 2014-15. This is substantial increase and it must be considered as the Minister reviews this stock and sets aside an allowance for recreational interests.
33. Recreational interests are open to discussions on managing PAU7 to ensure its long-term viability. The fishery must be rebuilt to abundant levels and another harvest estimate will inform future Ministerial decisions.

#### **Customary interests**

34. The submitters note there is no reporting requirement applying to Maori customary catch for much of PAU7. MPI advise the Te Tau Ihu Forum, representing eight of nine iwi interests with customary, recreational and commercial interests, reports that "*a precautionary approach is used when issuing authorisations because of their perception that the fishery is under pressure*". We support this precautionary approach.
35. MPI are unsure the actual level of customary catch but assume the current allowance of 15 tonnes adequately provides for Maori customary interests.
36. The submitters note Te Tau Ihu Forum is strongly opposed to any reduction to the customary allowance. The Forum considers that any reduction to the TACC ought to apply proportionally to the recreational allowance. Under Option 3 (60% TACC cut) that would mean the recreational allowance would be reduced by 60%, from 15 t to 6 tonnes. In our view it would be reckless for the Minister to apply such a reduction because current harvest estimates are uncertain, and the Minister has a statutory obligation to manage all mortality within the TAC, and a duty to provide for non-commercial fishing interests in the stock, both Maori customary and recreational interests, as per s21(1)(a) of the Fisheries Act 1996.

#### **Environmental interests**

37. The submitters agree with MPI's assumption that increasing stock abundance in a short time period will improve stock resilience to other anthropogenic (human induced) or environmental factors affecting PAU7.
38. Given that our understanding of the marine environment is so poor it is incumbent on the Minister to act in a precautionary manner when setting or varying the TAC and TACC, as per s9 of the Fisheries Act 1996.

#### **Other mortality**

39. Taking this precautionary approach also means that the Minister must set aside an increased amount to allow for other sources of fishing related mortality. Option 3 provides for an increase from 3 tonnes to 10 tonnes.